

**Proposed Substitute
Bill No. 221**

LCO No. 2984

AN ACT CONCERNING PAID FAMILY AND MEDICAL LEAVE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) As used in this section and
2 sections 2 to 13, inclusive, of this act:

3 (1) "Covered employee" means an individual who (A) (i) has earned
4 not less than two thousand three hundred twenty-five dollars, or such
5 minimum earning threshold as is prescribed by the Labor
6 Commissioner pursuant to subsection (f) of section 2 of this act, from
7 one or more employers during the employee's highest earning quarter
8 within the five most recently completed calendar quarters, and (ii) is
9 employed by an employer or not currently employed, or (B) is a self-
10 employed person or sole proprietor who is enrolled in the Family and
11 Medical Leave Compensation Program pursuant to section 8 of this
12 act;

13 (2) "Administrator" means the Labor Department;

14 (3) "Employ" means to allow or permit to work;

15 (4) "Employee" means any person engaged in service to an employer
16 in the state in the business of the employer and shall include a self-
17 employed person or sole proprietor in the state who elects coverage

18 under section 8 of this act;

19 (5) "Employer" means a person engaged in any activity, enterprise
20 or business who employs two or more employees, and includes any
21 person who acts, directly or indirectly, in the interest of an employer to
22 any of the employees of such employer and any successor in interest of
23 an employer, and shall include the state, a municipality, a local or
24 regional board of education, or a private or parochial elementary or
25 secondary school. The number of employees of an employer shall be
26 determined by the administrator on October first annually;

27 (6) "Family and medical leave compensation" or "compensation"
28 means the paid leave provided to covered employees from the Family
29 and Medical Leave Compensation Trust Fund;

30 (7) "Family and Medical Leave Compensation Trust Fund" or "trust"
31 means the trust fund established pursuant to section 3 of this act;

32 (8) "Family and Medical Leave Compensation Program" or
33 "program" means the program established pursuant to section 2 of this
34 act; and

35 (9) "Person" means one or more individuals, partnerships,
36 associations, corporations, limited liability companies, business trusts,
37 legal representatives or any organized group of persons.

38 Sec. 2. (NEW) (*Effective from passage*) (a) There is established a
39 Family and Medical Leave Compensation Program. The program shall
40 be administered by the administrator and shall offer up to twelve
41 workweeks of family and medical leave compensation to covered
42 employees during any twelve-month period as described in section 31-
43 51ll of the general statutes, as amended by this act. The administrator
44 shall begin collecting contributions to the Family and Medical Leave
45 Compensation Trust Fund, established pursuant to section 3 of this act,
46 on or before March 1, 2017, and shall begin to provide compensation to
47 covered employees on and after March 1, 2018. For the purposes of this
48 section and sections 3 to 13, inclusive, of this act, the administrator

49 shall have the power to (1) determine whether an individual meets the
50 requirements for compensation under this section; (2) require a
51 covered employee's claim for compensation pursuant to this section be
52 supported by certification pursuant to section 31-51mm of the general
53 statutes, as amended by this act; (3) examine or cause to be produced
54 or examined, any books, records, documents, contracts or other papers
55 relevant to the eligibility of a covered employee; (4) summon and
56 examine under oath such witnesses as may provide information
57 relevant to a covered employee's claim for family and medical leave
58 compensation; (5) establish procedures and forms for the filing of
59 claims for compensation, including the certification required for
60 establishing eligibility for such compensation; and (6) ensure the
61 confidentiality of records and documents relating to medical
62 certifications, recertifications or medical histories of covered
63 employees or covered employees' family members pursuant to section
64 31-51oo of the general statutes, as amended by this act.

65 (b) Each employee shall contribute a percentage of his or her weekly
66 earnings to the Family and Medical Leave Compensation Trust Fund,
67 in a manner and form as prescribed by the administrator pursuant to
68 section 6 of this act. Such contributions shall be utilized to provide
69 compensation to covered employees pursuant to subsections (c) to (e),
70 inclusive, of this section.

71 (c) (1) The level of weekly compensation offered to covered
72 employees shall be one hundred per cent of a covered employee's
73 average weekly earnings during the employee's highest earning
74 quarter within the five most recently completed calendar quarters
75 preceding the date the leave commences after such earnings have been
76 reduced by any deduction for federal or state taxes, or both, and for
77 the federal Insurance Contributions Act, provided such compensation
78 shall not exceed one thousand dollars per week or such maximum
79 compensation threshold as is prescribed by the Labor Commissioner
80 pursuant to subdivision (2) of this subsection. If the Internal Revenue
81 Service determines that family and medical leave compensation is
82 subject to federal income tax and a covered employee elects to have

83 federal income tax deducted and withheld from his or her
84 compensation, the administrator shall deduct and withhold the
85 amount specified in the United States Internal Revenue Code in a
86 manner consistent with the state law.

87 (2) Effective July 1, 2018, and not later than each July fifteenth
88 thereafter, the Labor Commissioner shall announce an adjustment to
89 the maximum compensation threshold established pursuant to
90 subdivision (1) of this subsection that shall be equal to the percentage
91 increase between the last complete calendar year and the previous
92 calendar year in the consumer price index for urban wage earners and
93 clerical workers in the northeast urban area of New York-Northern
94 New Jersey-Long Island, NY-NJ-CT-PA, with no seasonal adjustment,
95 as calculated by the United States Department of Labor's Bureau of
96 Labor Statistics, with the amount of the maximum compensation
97 threshold increase rounded to the nearest five cents. The maximum
98 compensation threshold plus the adjustment announced by the Labor
99 Commissioner on July fifteenth shall become the new maximum
100 compensation threshold and shall be effective on the January first
101 immediately following.

102 (d) A covered employee shall receive compensation under this
103 section for leave taken for one or more of the reasons listed in
104 subparagraphs (A) to (E), inclusive, of subdivision (2) of subsection (a)
105 of section 31-51ll of the general statutes, as amended by this act, or the
106 reasons listed in subsection (i) of said section or section 31-51ss of the
107 general statutes, as amended by this act, provided such covered
108 employee (1) provides notice to the administrator, and such covered
109 employee's employer, if applicable, of the need for such compensation
110 in a form and a manner as prescribed by the administrator, and (2)
111 upon the request of the administrator, provides certification of such
112 covered employee's need for compensation in accordance with the
113 provisions of section 31-51mm of the general statutes, as amended by
114 this act, to the administrator and such employer, if applicable.

115 (e) A covered employee may receive compensation under this

116 section for nonconsecutive hours of leave provided such leave shall
117 not amount to less than eight hours of leave in any workweek. If
118 family and medical leave benefits are taken for eight hours or more,
119 but for less than one full week, such hourly compensation shall be
120 determined on a pro rata basis at the discretion of the administrator.

121 (f) Effective July 1, 2018, and not later than each July fifteenth
122 thereafter, the Labor Commissioner shall announce an adjustment to
123 the minimum earning threshold required for an individual to receive
124 compensation under this section that shall be equal to the percentage
125 increase between the last complete calendar year and the previous
126 calendar year in the consumer price index for urban wage earners and
127 clerical workers in the northeast urban area of New York-Northern
128 New Jersey-Long Island, NY-NJ-CT-PA, with no seasonal adjustment,
129 as calculated by the United States Department of Labor's Bureau of
130 Labor Statistics, with the amount of the minimum earning threshold
131 increase rounded to the nearest five cents. The minimum earning
132 threshold plus the adjustment announced by the Labor Commissioner
133 on July fifteenth shall become the new minimum earning threshold
134 and shall be effective on the January first immediately following.

135 (g) A covered employee may receive compensation under this
136 section concurrently with any employer-provided employment
137 benefits, provided the total compensation of such eligible employee
138 during such period of leave shall not exceed such eligible employee's
139 regular rate of compensation.

140 (h) No covered employee shall receive compensation under this
141 section concurrently with the provisions of chapter 567 or 568 of the
142 general statutes or any other state or federal program that provides
143 wage replacement.

144 (i) Any moneys expended from the General Fund for the purpose of
145 (1) administering the Family and Medical Leave Compensation
146 Program, or (2) providing compensation to covered employees shall be
147 reimbursed to the General Fund by the administrator not later than
148 June 30, 2018.

149 Sec. 3. (NEW) (*Effective from passage*) (a) There is established a fund
150 to be known as the "Family and Medical Leave Compensation Trust
151 Fund" the purpose of which shall be to provide compensation to
152 covered employees who take leave pursuant to sections 31-51kk to 31-
153 51qq, inclusive, of the general statutes, as amended by this act, and 31-
154 51ss of the general statutes, as amended by this act. The Family and
155 Medical Leave Compensation Trust Fund shall be a nonlapsing fund
156 held by the State Treasurer separate and apart from all other moneys,
157 funds and accounts. Investment earnings credited to the trust shall
158 become part of the trust.

159 (b) The trust shall constitute an instrumentality of the state and shall
160 perform essential governmental functions, in accordance with the
161 provisions of this section. The trust shall receive and hold all payments
162 and deposits or contributions intended for the trust, as well as gifts,
163 bequests, endowments or federal, state or local grants and any other
164 funds from any public or private source and all earnings until
165 disbursed in accordance with the provisions of this section.

166 (c) The amounts on deposit in the trust shall not constitute property
167 of the state and the trust shall not be construed to be a department,
168 institution or agency of the state. Amounts on deposit in the trust shall
169 not be commingled with state funds and the state shall have no claim
170 to or against, or interest in, such funds. Any contract entered into by or
171 any obligation of the trust shall not constitute a debt or obligation of
172 the state and the state shall have no obligation to any designated
173 beneficiary or any other person on account of the trust and all amounts
174 obligated to be paid from the trust shall be limited to amounts
175 available for such obligation on deposit in the trust. The trust shall
176 continue in existence as long as it holds any deposits or has any
177 obligations and until its existence is terminated by law and upon
178 termination any unclaimed assets shall return to the state. Property of
179 the trust shall be governed by section 3-61a of the general statutes.

180 (d) The State Treasurer shall be responsible for the receipt and
181 investment of moneys held by the trust. The trust shall not receive

182 deposits in any form other than cash. No depositor or designated
183 beneficiary may direct the investment of any contributions or amounts
184 held in the trust other than the specific fund options provided for by
185 the trust.

186 (e) The assets of the trust shall be used for the purpose of
187 distributing family and medical leave compensation to covered
188 employees, educating and informing individuals about the program
189 and paying the operational, administrative and investment costs of the
190 trust, including those incurred pursuant to section 6 of this act.

191 Sec. 4. (NEW) (*Effective from passage*) The State Treasurer, on behalf
192 of the Family and Medical Leave Compensation Trust Fund and for
193 purposes of the trust, shall:

194 (1) Receive and invest moneys in the trust in any instruments,
195 obligations, securities or property in accordance with sections 3 and 5
196 of this act;

197 (2) Procure insurance as the State Treasurer deems necessary to
198 protect the trust's property, assets, activities or deposits or
199 contributions to the trust; and

200 (3) Apply for, accept and expend gifts, grants or donations from
201 public or private sources to carry out the objectives of the trust.

202 Sec. 5. (NEW) (*Effective from passage*) The State Treasurer shall invest
203 the amounts on deposit in the Family and Medical Leave
204 Compensation Trust Fund in a manner reasonable and appropriate to
205 achieve the objectives of the trust, exercising the discretion and care of
206 a prudent person in similar circumstances with similar objectives. The
207 State Treasurer shall give due consideration to rate of return, risk, term
208 or maturity, diversification of the total portfolio within the trust,
209 liquidity, the projected disbursements and expenditures and the
210 expected payments, deposits, contributions and gifts to be received.
211 The State Treasurer shall not require the trust to invest directly in
212 obligations of the state or any political subdivision of the state or in

213 any investment or other fund administered by the State Treasurer. The
214 assets of the trust shall be continuously invested and reinvested in a
215 manner consistent with the objectives of the trust until disbursed upon
216 order of the administrator or expended on expenses incurred by the
217 operations of the trust.

218 Sec. 6. (NEW) (*Effective from passage*) The administrator, in
219 consultation with the State Treasurer and the Department of Revenue
220 Services, shall establish the procedures necessary to implement the
221 Family and Medical Leave Compensation Program. The administrator
222 shall:

223 (1) Design, establish and operate the program to ensure
224 transparency in the management of the program and the Family and
225 Medical Leave Compensation Trust Fund through oversight and ethics
226 review of plan fiduciaries;

227 (2) Design and establish the process by which employees shall
228 contribute a portion of their salary or wages to the trust. This process
229 shall include, but not be limited to, the creation of an information
230 packet including the necessary paperwork for an employee to
231 participate in the program pursuant to section 8 of this act;

232 (3) Evaluate and establish the process by which employers may
233 credit employee contributions to the trust through payroll deposit;

234 (4) Determine the amount of employee contributions necessary to
235 ensure solvency of the program, provided that total contributions shall
236 not be less than four million dollars per month;

237 (5) Ensure that contributions to the trust collected from employees
238 shall not be used for any purpose other than to provide compensation
239 to covered employees or to satisfy any expenses, including employee
240 costs, incurred to implement, maintain, advertise and administer the
241 program;

242 (6) Establish and maintain a secure Internet web site that displays all
243 public notices issued by the administrator and such other information

244 as the administrator deems relevant and necessary for the education of
245 the public regarding the program; and

246 (7) Not later than January 1, 2017, submit a report, in accordance
247 with the provisions of section 11-4a of the general statutes, to the
248 General Assembly regarding any recommendations for legislative
249 action that may be necessary for the implementation of the program.

250 Sec. 7. (NEW) (*Effective from passage*) The administrator, in
251 consultation with the State Treasurer, shall conduct a public education
252 campaign to inform individuals and employers about the Family and
253 Medical Leave Compensation Program. Such campaign shall include,
254 but not be limited to, information about the requirements for receiving
255 family and medical leave compensation, how to apply for such
256 compensation and the circumstances for which such compensation
257 may be available. The administrator may use funds contributed to the
258 Family and Medical Leave Compensation Trust Fund established
259 pursuant to section 3 of this act for purposes of the public education
260 campaign. Information distributed or made available under the
261 campaign shall be available in English and Spanish and in any other
262 language as prescribed by the administrator.

263 Sec. 8. (NEW) (*Effective from passage*) (a) A self-employed person or
264 sole proprietor, upon application to the administrator, in a form and
265 manner as prescribed by the administrator, may enroll in the Family
266 and Medical Leave Compensation Program, provided such self-
267 employed person or sole proprietor is enrolled in the program for an
268 initial period of not less than three years. Such self-employed person or
269 sole proprietor may reenroll in the program for a subsequent period,
270 or periods, of not less than one year, provided (1) such self-employed
271 person or sole proprietor provides written notice of such reenrollment
272 to the administrator, and (2) such reenrollment begins immediately
273 following a period of participation in the program.

274 (b) A self-employed person or sole proprietor may withdraw from
275 the program upon submitting written notice to the administrator not
276 less than thirty days prior to the expiration of the initial enrollment

277 period, or at such other times as the administrator may prescribe by
278 rule.

279 Sec. 9. (NEW) (*Effective from passage*) Any covered employee, or self-
280 employed person or sole proprietor participating in the program,
281 aggrieved by a denial of compensation under the Family and Medical
282 Leave Compensation Program may file a complaint with the Labor
283 Commissioner. Upon receipt of any such complaint, the commissioner
284 shall hold a hearing. After the hearing, the commissioner shall send
285 each party a written copy of the commissioner's decision. The
286 commissioner may award the covered employee, or self-employed
287 person or sole proprietor, all appropriate relief, including any
288 compensation or benefits to which the employee otherwise would
289 have been eligible if such denial had not occurred. Any party
290 aggrieved by the decision of the commissioner may appeal the
291 decision to the Superior Court in accordance with the provisions of
292 chapter 54 of the general statutes.

293 Sec. 10. (NEW) (*Effective January 1, 2018*) Each employer who
294 employs two or more employees, which shall be determined by the
295 administrator on October first annually, shall, at the time of hiring, and
296 annually thereafter, provide notice to each employee (1) of the
297 entitlement to family and medical leave under sections 31-51kk to 31-
298 51qq, inclusive, of the general statutes, as amended by this act, and 31-
299 51ss of the general statutes, as amended by this act, and the terms
300 under which such leave may be used, (2) that retaliation by the
301 employer against the employee for requesting, applying for or using
302 family and medical leave for which the employee is eligible is
303 prohibited, and (3) that the employee has a right to file a complaint
304 with the Labor Commissioner for any violation of said sections.
305 Employers shall comply with the provisions of this section by
306 displaying a poster in a conspicuous place, accessible to employees, at
307 the employer's place of business that contains the information required
308 by this section in both English and Spanish. The Labor Commissioner
309 may adopt regulations, in accordance with chapter 54 of the general
310 statutes, to establish additional requirements concerning the means by

311 which employers shall provide such notice.

312 Sec. 11. (NEW) (*Effective from passage*) (a) Any individual or covered
313 employee or self-employed person or sole proprietor participating in
314 the program who wilfully makes a false statement or
315 misrepresentation regarding a material fact, or wilfully fails to report a
316 material fact, to obtain family and medical leave compensation shall be
317 disqualified from receiving any compensation under the program for
318 one year.

319 (b) If family and medical leave compensation is paid to an
320 individual or covered employee erroneously or as a result of wilful
321 misrepresentation by such individual or covered employee, or if a
322 claim for family and medical leave compensation is rejected after
323 compensation is paid, the administrator may seek repayment of
324 benefits from the individual or covered employee having received
325 such compensation. The Labor Commissioner may, in his or her
326 discretion, waive, in whole or in part, the amount of any such
327 payments where the recovery would be against equity and good
328 conscience.

329 Sec. 12. (NEW) (*Effective from passage*) (a) The provisions of sections 2
330 to 13, inclusive, of this act are severable and if any provision is
331 determined to contravene state or federal law, the remainder of
332 sections 2 to 13, inclusive, of this act shall remain in full force and
333 effect.

334 (b) Nothing in sections 31-51kk to 31-51qq, inclusive, of the general
335 statutes, as amended by this act, and 31-51ss of the general statutes, as
336 amended by this act, or sections 2 to 13, inclusive, of this act, shall be
337 construed to (1) prevent employers from providing any benefits that
338 are more expansive than those provided for under said sections, (2)
339 diminish any rights provided to any covered employee under the
340 terms of the covered employee's employment or a collective
341 bargaining agreement, or (3) preempt or override the terms of any
342 collective bargaining agreement effective prior to the effective date of
343 this section.

344 Sec. 13. (NEW) (*Effective from passage*) Not later than January 1, 2019,
345 and annually thereafter, the Labor Commissioner shall report, in
346 accordance with section 11-4a of the general statutes, to the joint
347 standing committees of the General Assembly having cognizance of
348 matters relating to appropriations and labor, on (1) the projected and
349 actual participation in the program, (2) the balance of the trust, (3) the
350 size of employers at which covered employees are employed, (4) the
351 reasons covered employees are receiving family and medical leave
352 compensation, (5) the success of the administrator's outreach and
353 education efforts, and (6) demographic information of covered
354 employees, including gender, age, town of residence and income level.

355 Sec. 14. Section 31-51kk of the general statutes is repealed and the
356 following is substituted in lieu thereof (*Effective January 1, 2018*):

357 As used in sections 31-51kk to 31-51qq, inclusive, as amended by
358 this act:

359 (1) "Eligible employee" means an [employee] individual who [has
360 been employed (A) for at least twelve months by the employer with
361 respect to whom leave is requested; and (B) for at least one thousand
362 hours of service with such employer during the twelve-month period
363 preceding the first day of the leave;] (A) has earned not less than two
364 thousand three hundred twenty-five dollars, or such minimum
365 earning threshold established by the Labor Commissioner pursuant to
366 subsection (f) of section 2 of this act, from one or more employers
367 during the employee's highest earning quarter within the five most
368 recently completed calendar quarters, and (B) is employed by an
369 employer or not currently employed;

370 (2) "Employ" includes to allow or permit to work;

371 (3) "Employee" means any person engaged in service to an employer
372 in the business of the employer;

373 (4) "Employer" means a person engaged in any activity, enterprise
374 or business who employs [seventy-five] two or more employees, and

375 includes any person who acts, directly or indirectly, in the interest of
376 an employer to any of the employees of such employer and any
377 successor in interest of an employer, [but shall not] and shall include
378 the state, a municipality, a local or regional board of education, or a
379 private or parochial elementary or secondary school. The number of
380 employees of an employer shall be determined on October first
381 annually;

382 (5) "Employment benefits" means all benefits provided or made
383 available to employees by an employer, including group life insurance,
384 health insurance, disability insurance, sick leave, annual leave,
385 educational benefits and pensions, regardless of whether such benefits
386 are provided by practice or written policy of an employer or through
387 an "employee benefit plan", as defined in Section 1002(3) of Title 29 of
388 the United States Code;

389 (6) "Grandchild" means a grandchild related to a person by (A)
390 blood, (B) marriage, or (C) adoption by a child of the grandparent;

391 (7) "Grandparent" means a grandparent related to a person by (A)
392 blood, (B) marriage, or (C) adoption of a minor child by a child of the
393 grandparent;

394 [(6)] (8) "Health care provider" means (A) a doctor of medicine or
395 osteopathy who is authorized to practice medicine or surgery by the
396 state in which the doctor practices; (B) a podiatrist, dentist,
397 psychologist, optometrist or chiropractor authorized to practice by the
398 state in which such person practices and performs within the scope of
399 the authorized practice; (C) an advanced practice registered nurse,
400 nurse practitioner, nurse midwife or clinical social worker authorized
401 to practice by the state in which such person practices and performs
402 within the scope of the authorized practice; (D) Christian Science
403 practitioners listed with the First Church of Christ, Scientist in Boston,
404 Massachusetts; (E) any health care provider from whom an employer
405 or a group health plan's benefits manager will accept certification of
406 the existence of a serious health condition to substantiate a claim for
407 benefits; (F) a health care provider as defined in subparagraphs (A) to

408 (E), inclusive, of this subdivision who practices in a country other than
409 the United States, who is licensed to practice in accordance with the
410 laws and regulations of that country; or (G) such other health care
411 provider as the Labor Commissioner determines, performing within
412 the scope of the authorized practice. The commissioner may utilize any
413 determinations made pursuant to chapter 568;

414 [(7)] (9) "Parent" means a biological parent, foster parent, adoptive
415 parent, stepparent, parent-in-law or legal guardian of an eligible
416 employee or an eligible employee's spouse, or an individual [who
417 stood] standing in loco parentis to an employee; [when the employee
418 was a son or daughter;]

419 [(8)] (10) "Person" means one or more individuals, partnerships,
420 associations, corporations, business trusts, legal representatives or
421 organized groups of persons;

422 [(9)] (11) "Reduced leave schedule" means a leave schedule that
423 reduces the usual number of hours per workweek, or hours per
424 workday, of an employee;

425 [(10)] (12) "Serious health condition" means an illness, injury,
426 impairment, or physical or mental condition that involves (A) inpatient
427 care in a hospital, hospice, nursing home or residential medical care
428 facility; or (B) continuing treatment, including outpatient treatment, by
429 a health care provider;

430 (13) "Sibling" means a brother or sister related to a person by (A)
431 blood, (B) marriage, or (C) adoption by a parent of the person;

432 [(11)] (14) "Son or daughter" means a biological, adopted or foster
433 child, stepchild, legal ward, or, in the alternative, a child of a person
434 standing in loco parentis; [who is (A) under eighteen years of age; or
435 (B) eighteen years of age or older and incapable of self-care because of
436 a mental or physical disability;] and

437 [(12)] (15) "Spouse" means a [husband or wife, as the case may be]
438 person to whom one is legally married.

439 Sec. 15. Section 31-51ll of the general statutes is repealed and the
440 following is substituted in lieu thereof (*Effective January 1, 2018*):

441 (a) (1) Subject to section 31-51mm, as amended by this act, an
442 eligible employee shall be entitled to a total of [sixteen] twelve
443 workweeks of leave, which may be compensated under the Family and
444 Medical Leave Compensation Program established pursuant to section
445 2 of this act, during any [twenty-four-month] twelve-month period. [,
446 such twenty-four-month] Such twelve-month period [to be] shall be
447 determined utilizing any one of the following methods: (A)
448 [Consecutive calendar years] Calendar year; (B) any fixed [twenty-
449 four-month] twelve-month period, such as [two consecutive fiscal
450 years] a fiscal year or a [twenty-four-month] twelve-month period
451 measured forward from an employee's first date of employment; (C) a
452 [twenty-four-month] twelve-month period measured forward from an
453 employee's first day of leave taken under sections 31-51kk to 31-51qq,
454 inclusive, as amended by this act; or (D) a rolling [twenty-four-month]
455 twelve-month period measured backward from an employee's first
456 day of leave taken under sections 31-51kk to 31-51qq, inclusive, as
457 amended by this act.

458 (2) Leave under this subsection may be taken for one or more of the
459 following reasons:

460 (A) Upon the birth of a son or daughter of the employee;

461 (B) Upon the placement of a son or daughter with the employee for
462 adoption or foster care;

463 (C) In order to care for the spouse, [or a son,] sibling, son or
464 daughter, grandparent, grandchild or parent of the employee, if such
465 spouse, [son,] sibling, son or daughter, grandparent, grandchild or
466 parent has a serious health condition;

467 (D) Because of a serious health condition of the employee; or

468 (E) In order to serve as an organ or bone marrow donor.

469 (b) Entitlement to leave under subparagraph (A) or (B) of
470 subdivision (2) of subsection (a) of this section may accrue prior to the
471 birth or placement of a son or daughter when such leave is required
472 because of such impending birth or placement.

473 (c) (1) Leave under subparagraph (A) or (B) of subdivision (2) of
474 subsection (a) of this section for the birth or placement of a son or
475 daughter may not be taken by an employee intermittently or on a
476 reduced leave schedule unless the employee and the employer agree
477 otherwise. Subject to subdivision (2) of this subsection concerning an
478 alternative position, subdivision (2) of subsection (f) of this section
479 concerning the duties of the employee and subdivision (5) of
480 subsection (b) of section 31-51mm, as amended by this act, concerning
481 sufficient certification, leave under subparagraph (C) or (D) of
482 subdivision (2) of subsection (a) or under subsection (i) of this section
483 for a serious health condition may be taken intermittently or on a
484 reduced leave schedule when medically necessary. The taking of leave
485 intermittently or on a reduced leave schedule pursuant to this
486 subsection shall not result in a reduction of the total amount of leave to
487 which the employee is entitled under subsection (a) of this section
488 beyond the amount of leave actually taken.

489 (2) If an employee requests intermittent leave or leave on a reduced
490 leave schedule under subparagraph (C), (D) or (E) of subdivision (2) of
491 subsection (a) or under subsection (i) of this section that is foreseeable
492 based on planned medical treatment, the employer may require the
493 employee to transfer temporarily to an available alternative position
494 offered by the employer for which the employee is qualified and that
495 (A) has equivalent pay and benefits, and (B) better accommodates
496 recurring periods of leave than the regular employment position of the
497 employee, provided the exercise of this authority shall not conflict
498 with any provision of a collective bargaining agreement between such
499 employer and a labor organization which is the collective bargaining
500 representative of the unit of which the employee is a part.

501 (d) Except as provided in subsection (e) of this section, leave

502 granted under subsection (a) of this section may consist of unpaid
503 leave.

504 (e) (1) If an employer provides paid leave for fewer than [sixteen]
505 twelve workweeks, the additional weeks of leave necessary to attain
506 the [sixteen] twelve workweeks of leave required under sections [5-
507 248a and] 31-51kk to 31-51qq, inclusive, as amended by this act, may
508 be provided without compensation or with compensation through the
509 Family and Medical Leave Compensation Program established
510 pursuant to section 2 of this act.

511 (2) (A) An eligible employee may elect [, or an employer may
512 require the employee,] to substitute any of the accrued paid vacation
513 leave, personal leave or family leave of the employee for leave
514 provided under subparagraph (A), (B) or (C) of subdivision (2) of
515 subsection (a) of this section for any part of the [sixteen-week] twelve-
516 week period of such leave under said subsection or under subsection
517 (i) of this section for any part of the twenty-six-week period of such
518 leave.

519 (B) An eligible employee may elect [, or an employer may require
520 the employee,] to substitute any of the accrued paid vacation leave,
521 personal leave, or medical or sick leave of the employee for leave
522 provided under subparagraph (C), (D) or (E) of subdivision (2) of
523 subsection (a) of this section for any part of the [sixteen-week] twelve-
524 week period of such leave under said subsection or under subsection
525 (i) of this section for any part of the twenty-six-week period of leave,
526 except that nothing in [section 5-248a or] sections 31-51kk to 31-51qq,
527 inclusive, as amended by this act, shall require an employer to provide
528 paid sick leave or paid medical leave in any situation in which such
529 employer would not normally provide any such paid leave.

530 (f) (1) In any case in which the necessity for leave under
531 subparagraph (A) or (B) of subdivision (2) of subsection (a) of this
532 section is foreseeable based on an expected birth or placement of a son
533 or daughter, the employee shall provide the employer with not less
534 than thirty days' notice, before the date of the leave is to begin, of the

535 employee's intention to take leave under said subparagraph (A) or (B),
536 except that if the date of the birth or placement of a son or daughter
537 requires leave to begin in less than thirty days, the employee shall
538 provide such notice as is practicable.

539 (2) In any case in which the necessity for leave under subparagraph
540 (C), (D) or (E) of subdivision (2) of subsection (a) or under subsection
541 (i) of this section is foreseeable based on planned medical treatment,
542 the employee (A) shall make a reasonable effort to schedule the
543 treatment so as not to disrupt unduly the operations of the employer,
544 subject to the approval of the health care provider of the employee or
545 the health care provider of the spouse, sibling, son [,] or daughter,
546 [spouse] grandparent, grandchild or parent of the employee, as
547 appropriate; and (B) shall provide the employer with not less than
548 thirty days' notice, before the date the leave is to begin, of the
549 employee's intention to take leave under said subparagraph (C), (D) or
550 (E) or said subsection (i), except that if the date of the treatment
551 requires leave to begin in less than thirty days, the employee shall
552 provide such notice as is practicable.

553 (g) In any case in which [a husband and wife] two spouses entitled
554 to leave under subsection (a) of this section are employed by the same
555 employer, the aggregate number of workweeks of leave to which both
556 may be entitled may be limited to [sixteen] twelve workweeks, which
557 may be compensated under the Family and Medical Leave
558 Compensation Program established pursuant to section 2 of this act,
559 during any [twenty-four-month] twelve-month period, if such leave is
560 taken: (1) Under subparagraph (A) or (B) of subdivision (2) of
561 subsection (a) of this section; or (2) to care for a sick sibling, son or
562 daughter, grandparent, grandchild, or parent under subparagraph (C)
563 of said subdivision. In any case in which [a husband and wife] two
564 spouses entitled to leave under subsection (i) of this section are
565 employed by the same employer, the aggregate number of workweeks
566 of leave to which both may be entitled may be limited to twenty-six
567 workweeks, twelve weeks of which may be compensated under the
568 Family and Medical Leave Compensation Program established

569 pursuant to section 2 of this act, during any twelve-month period.

570 (h) Unpaid leave taken pursuant to sections [5-248a and] 31-51kk to
571 31-51qq, inclusive, as amended by this act, shall not be construed to
572 affect an employee's qualification for exemption under chapter 558.

573 (i) Subject to section 31-51mm, as amended by this act, an eligible
574 employee who is the spouse, sibling, son or daughter, grandparent,
575 grandchild, parent or next of kin of a current member of the armed
576 forces, as defined in section 27-103, who is undergoing medical
577 treatment, recuperation or therapy, is otherwise in outpatient status or
578 is on the temporary disability retired list for a serious injury or illness
579 incurred in the line of duty shall be entitled to a one-time benefit of
580 twenty-six workweeks of leave, up to twelve workweeks of which may
581 be compensated under the Family and Medical Leave Compensation
582 Program established pursuant to section 2 of this act, during any
583 twelve-month period for each armed forces member per serious injury
584 or illness incurred in the line of duty. Such twelve-month period shall
585 commence on an employee's first day of leave taken to care for a
586 covered armed forces member and end on the date twelve months
587 after such first day of leave. For the purposes of this subsection, (1)
588 "next of kin" means the armed forces member's nearest blood relative,
589 other than the covered armed forces member's spouse, [parent] sibling,
590 son or daughter, grandparent, grandchild or parent, in the following
591 order of priority: Blood relatives who have been granted legal custody
592 of the armed forces member by court decree or statutory provisions,
593 [brothers and sisters, grandparents,] aunts and uncles, and first
594 cousins, unless the covered armed forces member has specifically
595 designated in writing another blood relative as his or her nearest blood
596 relative for purposes of military caregiver leave, in which case the
597 designated individual shall be deemed to be the covered armed forces
598 member's next of kin; and (2) "son or daughter" means a biological,
599 adopted or foster child, stepchild, legal ward or child for whom the
600 eligible employee or armed forces member stood in loco parentis and
601 who is any age.

602 (j) Leave taken pursuant to sections 31-51kk to 31-51qq, inclusive, as
603 amended by this act, shall not run concurrently with the provisions of
604 section 31-313.

605 (k) Notwithstanding the provisions of sections [5-248a and] 31-51kk
606 to 31-51qq, inclusive, as amended by this act, all further rights granted
607 by federal law shall remain in effect.

608 Sec. 16. Section 31-51mm of the general statutes is repealed and the
609 following is substituted in lieu thereof (*Effective January 1, 2018*):

610 (a) An employer may require that request for leave based on a
611 serious health condition in subparagraph (C) or (D) of subdivision (2)
612 of subsection (a) of section 31-51ll, as amended by this act, or leave
613 based on subsection (i) of section 31-51ll, as amended by this act, be
614 supported by a certification issued by the health care provider of the
615 eligible employee or of the spouse, sibling, son [.] or daughter,
616 [spouse] grandparent, grandchild, parent or next of kin of the
617 employee, as appropriate. The employee shall provide, in a timely
618 manner, a copy of such certification to the employer.

619 (b) Certification provided under subsection (a) of this section shall
620 be sufficient if it states:

621 (1) The date on which the serious health condition commenced;

622 (2) The probable duration of the condition;

623 (3) The appropriate medical facts within the knowledge of the
624 health care provider regarding the condition;

625 (4) (A) For purposes of leave under subparagraph (C) of subdivision
626 (2) of subsection (a) of section 31-51ll, as amended by this act, a
627 statement that the eligible employee is needed to care for the spouse,
628 sibling, son [.] or daughter, [spouse] grandparent, grandchild or parent
629 and an estimate of the amount of time that such employee needs to
630 care for the spouse, sibling, son [.] or daughter, [spouse] grandparent,
631 grandchild or parent; and (B) for purposes of leave under

632 subparagraph (D) of subdivision (2) of subsection (a) of section 31-51ll,
633 as amended by this act, a statement that the employee is unable to
634 perform the functions of the position of the employee;

635 (5) In the case of certification for intermittent leave or leave on a
636 reduced leave schedule for planned medical treatment, the dates on
637 which such treatment is expected to be given and the duration of such
638 treatment;

639 (6) In the case of certification for intermittent leave or leave on a
640 reduced leave schedule under subparagraph (D) of subdivision (2) of
641 subsection (a) of section 31-51ll, as amended by this act, a statement of
642 the medical necessity of the intermittent leave or leave on a reduced
643 leave schedule, and the expected duration of the intermittent leave or
644 reduced leave schedule;

645 (7) In the case of certification for intermittent leave or leave on a
646 reduced leave schedule under subparagraph (C) of subdivision (2) of
647 subsection (a) of section 31-51ll, as amended by this act, a statement
648 that the employee's intermittent leave or leave on a reduced leave
649 schedule is necessary for the care of the spouse, sibling, son [.] or
650 daughter, grandparent, grandchild or parent [or spouse] who has a
651 serious health condition, or will assist in their recovery, and the
652 expected duration and schedule of the intermittent leave or reduced
653 leave schedule; and

654 (8) In the case of certification for intermittent leave or leave on a
655 reduced leave schedule under subsection (i) of section 31-51ll, as
656 amended by this act, a statement that the employee's intermittent leave
657 or leave on a reduced leave schedule is necessary for the care of the
658 spouse, sibling, son or daughter, grandparent, grandchild, parent or
659 next of kin who is a current member of the armed forces, as defined in
660 section 27-103, who is undergoing medical treatment, recuperation or
661 therapy, is otherwise in outpatient status or is on the temporary
662 disability retired list, for a serious injury or illness incurred in the line
663 of duty, and the expected duration and schedule of the intermittent
664 leave or reduced leave schedule. For the purposes of this subsection,

665 "son or daughter" and "next of kin" have the same meanings as
666 provided in subsection (i) of section 31-51ll, as amended by this act.

667 (c) (1) In any case in which the employer has reason to doubt the
668 validity of the certification provided under subsection (a) of this
669 section for leave under subparagraph (C) or (D) of subdivision (2) of
670 subsection (a) or under subsection (i) of section 31-51ll, as amended by
671 this act, the employer may require, at the expense of the employer, that
672 the eligible employee obtain the opinion of a second health care
673 provider designated or approved by the employer concerning any
674 information certified under subsection (b) of this section for such leave.

675 (2) A health care provider designated or approved under
676 subdivision (1) of this subsection shall not be employed on a regular
677 basis by the employer.

678 (d) (1) In any case in which the second opinion described in
679 subsection (c) of this section differs from the opinion in the original
680 certification provided under subsection (a) of this section, the
681 employer may require, at the expense of the employer, that the
682 employee obtain the opinion of a third health care provider designated
683 or approved jointly by the employer and the employee concerning the
684 information certified under subsection (b) of this section.

685 (2) The opinion of the third health care provider concerning the
686 information certified under subsection (b) of this section shall be
687 considered to be final and shall be binding on the employer and the
688 employee.

689 (e) The employer may require that the eligible employee obtain
690 subsequent recertifications on a reasonable basis, provided the
691 standards for determining what constitutes a reasonable basis for
692 recertification may be governed by a collective bargaining agreement
693 between such employer and a labor organization which is the
694 collective bargaining representative of the unit of which the worker is
695 a part if such a collective bargaining agreement is in effect. Unless
696 otherwise required by the employee's health care provider, the

697 employer may not require recertification more than once during a
698 thirty-day period and, in any case, may not unreasonably require
699 recertification. The employer shall pay for any recertification that is not
700 covered by the employee's health insurance.

701 Sec. 17. Section 31-51oo of the general statutes is repealed and the
702 following is substituted in lieu thereof (*Effective January 1, 2018*):

703 Records and documents relating to medical certifications,
704 recertifications or medical histories of employees or employees' family
705 members, created for purposes of sections [5-248a and] 31-51kk to 31-
706 51qq, inclusive, as amended by this act, and sections 2 to 13, inclusive,
707 of this act, shall be maintained as medical records pursuant to chapter
708 563a, except that: (1) Supervisors and managers may be informed
709 regarding necessary restrictions on the work or duties of an employee
710 and necessary accommodations; (2) first aid and safety personnel may
711 be informed, when appropriate, if the employee's physical or medical
712 condition might require emergency treatment; and (3) government
713 officials investigating compliance with sections [5-248a and] 31-51kk to
714 31-51qq, inclusive, as amended by this act, and sections 2 to 13,
715 inclusive, of this act, or other pertinent law shall be provided relevant
716 information upon request.

717 Sec. 18. Section 31-51pp of the general statutes is repealed and the
718 following is substituted in lieu thereof (*Effective January 1, 2018*):

719 (a) (1) It shall be a violation of sections [5-248a and] 31-51kk to 31-
720 51qq, inclusive, as amended by this act, for any employer to interfere
721 with, restrain or deny the exercise of, or the attempt to exercise, any
722 right provided under said sections.

723 (2) It shall be a violation of sections [5-248a and] 31-51kk to 31-51qq,
724 inclusive, as amended by this act, for any employer to discharge or
725 cause to be discharged, or in any other manner discriminate, against
726 any individual for opposing any practice made unlawful by said
727 sections or because such employee has exercised the rights afforded to
728 such employee under said sections.

729 (b) It shall be a violation of sections [5-248a and] 31-51kk to 31-51qq,
730 inclusive, as amended by this act, for any person to discharge or cause
731 to be discharged, or in any other manner discriminate, against any
732 individual because such individual:

733 (1) Has filed any charge, or has instituted or caused to be instituted
734 any proceeding, under or related to sections [5-248a and] 31-51kk to
735 31-51qq, inclusive, as amended by this act;

736 (2) Has given, or is about to give, any information in connection
737 with any inquiry or proceeding relating to any right provided under
738 said sections; or

739 (3) Has testified, or is about to testify, in any inquiry or proceeding
740 relating to any right provided under said sections.

741 (c) (1) It shall be a violation of sections 31-51kk to 31-51qq, inclusive,
742 as amended by this act, for any employer to deny an employee the
743 right to use up to two weeks of accumulated sick leave or to discharge,
744 threaten to discharge, demote, suspend or in any manner discriminate
745 against an employee for using, or attempting to exercise the right to
746 use, up to two weeks of accumulated sick leave to attend to a serious
747 health condition of a spouse, sibling, son or daughter, [spouse]
748 grandparent, grandchild or parent of the employee, or for the birth or
749 adoption of a son or daughter of the employee. For purposes of this
750 subsection, "sick leave" means an absence from work for which
751 compensation is provided through (A) an employer's bona fide written
752 policy providing compensation for loss of wages occasioned by illness,
753 or (B) the Family and Medical Leave Compensation Program
754 established pursuant to section 2 of this act, but does not include
755 absences from work for which compensation is provided through an
756 employer's plan, including, but not limited to, a short or long-term
757 disability plan, whether or not such plan is self-insured.

758 (2) Any employee aggrieved by a violation of this subsection may
759 file a complaint with the Labor Commissioner alleging violation of the
760 provisions of this subsection. Upon receipt of any such complaint, the

761 commissioner shall hold a hearing. After the hearing, the
762 commissioner shall send each party a written copy of the
763 commissioner's decision. The commissioner may award the employee
764 all appropriate relief, including rehiring or reinstatement to the
765 employee's previous job, payment of back wages and reestablishment
766 of employee benefits to which the employee otherwise would have
767 been eligible if a violation of this subsection had not occurred. Any
768 party aggrieved by the decision of the commissioner may appeal the
769 decision to the Superior Court in accordance with the provisions of
770 chapter 54.

771 (3) The rights and remedies specified in this subsection are
772 cumulative and nonexclusive and are in addition to any other rights or
773 remedies afforded by contract or under other provisions of law.

774 Sec. 19. Section 31-51qq of the general statutes is repealed and the
775 following is substituted in lieu thereof (*Effective January 1, 2018*):

776 On or before January 1, [1997] 2018, the Labor Commissioner shall
777 adopt regulations, in accordance with the provisions of chapter 54, to
778 establish procedures and guidelines necessary to implement the
779 provisions of sections [5-248a and] 31-51kk to 31-51qq, inclusive, as
780 amended by this act, and sections 2 to 13, inclusive, of this act,
781 including, but not limited to, procedures for hearings and redress,
782 including restoration and restitution, for an employee who believes
783 that there is a violation by the employer of such employee of any
784 provision of said sections. [In adopting such regulations, the
785 commissioner shall make reasonable efforts to ensure compatibility of
786 state regulatory provisions with similar provisions of the federal
787 Family and Medical Leave Act of 1993 and the regulations
788 promulgated pursuant to said act.]

789 Sec. 20. Section 31-51ss of the general statutes is repealed and the
790 following is substituted in lieu thereof (*Effective January 1, 2018*):

791 (a) For the purposes of this section:

792 (1) "Employer" means a person engaged in business who has [three]
793 two or more employees, including the state and any political
794 subdivision of the state;

795 (2) "Employee" means any person engaged in service to an employer
796 in the business of the employer;

797 (3) "Family violence" means family violence, as defined in section
798 46b-38a; and

799 (4) "Leave" includes paid or unpaid leave which may include, but is
800 not limited to, compensatory time, vacation time, personal days off,
801 leave under the Family and Medical Leave Compensation Program
802 established pursuant to section 2 of this act or other time off.

803 (b) If an employee is a victim of family violence, an employer shall
804 permit the employee to take paid or unpaid leave during any calendar
805 year in which such leave is reasonably necessary (1) to seek medical
806 care or psychological or other counseling for physical or psychological
807 injury or disability for the victim, (2) to obtain services from a victim
808 services organization on behalf of the victim, (3) to relocate due to such
809 family violence, or (4) to participate in any civil or criminal proceeding
810 related to or resulting from such family violence. An employer may
811 limit unpaid leave under this section to twelve days during any
812 calendar year. Leave under this section shall not affect any other leave
813 provided under state or federal law.

814 (c) If an employee's need to use leave under this section is
815 foreseeable, an employer may require advance notice, not to exceed
816 seven days prior to the date such leave is to begin, of the intention to
817 use such leave. If an employee's need for such leave is not foreseeable,
818 an employer may require an employee to give notice of such intention
819 as soon as practicable.

820 (d) Upon an employer's request, an employee who takes leave
821 pursuant to this section shall provide the employer a signed written
822 statement certifying that the leave is for a purpose authorized under

823 this section. The employer may also, but need not, request that the
824 employee provide a police or court record related to the family
825 violence or a signed written statement that the employee is a victim of
826 family violence, provided such statement is from an employee or agent
827 of a victim services organization, an attorney, an employee of the
828 Judicial Branch's Office of Victim Services or the Office of the Victim
829 Advocate, or a licensed medical professional or other licensed
830 professional from whom the employee has sought assistance with
831 respect to the family violence.

832 (e) Nothing in this section shall be construed to (1) prevent
833 employers from providing more leave than is required under this
834 section, (2) diminish any rights provided to any employee under the
835 terms of the employee's employment or a collective bargaining
836 agreement, or (3) preempt or override the terms of any collective
837 bargaining agreement effective prior to October 1, 2010.

838 (f) Nothing in this section shall be construed to require an employer
839 to provide paid leave under this section if (1) the employee is not
840 entitled to paid leave pursuant to the terms and conditions of the
841 employee's employment or under the Family and Medical Leave
842 Compensation Program established pursuant to section 2 of this act, or
843 (2) such paid leave exceeds the maximum amount of leave due the
844 employee during any calendar year, provided the employee shall be
845 entitled to unpaid leave under this section if paid leave is exhausted or
846 not provided.

847 (g) Any written statement or police or court record provided to an
848 employer pursuant to subsection (d) of this section shall be maintained
849 as confidential by the employer and shall not be further disclosed by
850 the employer except as required by federal or state law or as necessary
851 to protect the employee's safety in the workplace, provided the
852 employee is given notice prior to the disclosure.

853 (h) If an employer discharges, penalizes or threatens or otherwise
854 coerces an employee in violation of this section, the employee, not later
855 than one hundred eighty days from the occurrence of such action, may

856 bring a civil action for damages and for an order requiring the
857 employee's reinstatement or otherwise rescinding such action. If the
858 employee prevails, the employee shall be allowed a reasonable
859 attorney's fee to be fixed by the court.

860 Sec. 21. Section 3-13c of the general statutes is repealed and the
861 following is substituted in lieu thereof (*Effective July 1, 2016*):

862 Trust funds as used in sections 3-13 to 3-13e, inclusive, and 3-31b
863 shall be construed to include Connecticut Municipal Employees'
864 Retirement Fund A, Connecticut Municipal Employees' Retirement
865 Fund B, Soldiers, Sailors and Marines Fund, Family and Medical Leave
866 Compensation Trust Fund established pursuant to section 2 of this act,
867 State's Attorneys' Retirement Fund, Teachers' Annuity Fund, Teachers'
868 Pension Fund, Teachers' Survivorship and Dependency Fund, School
869 Fund, State Employees Retirement Fund, the Hospital Insurance Fund,
870 Policemen and Firemen Survivor's Benefit Fund and all other trust
871 funds administered, held or invested by the State Treasurer.

872 Sec. 22. Sections 5-248a, 5-248b and 31-51rr of the general statutes
873 are repealed. (*Effective January 1, 2018*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section
Sec. 8	<i>from passage</i>	New section
Sec. 9	<i>from passage</i>	New section
Sec. 10	<i>January 1, 2018</i>	New section
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	New section
Sec. 13	<i>from passage</i>	New section
Sec. 14	<i>January 1, 2018</i>	31-51kk

Sec. 15	<i>January 1, 2018</i>	31-51ll
Sec. 16	<i>January 1, 2018</i>	31-51mm
Sec. 17	<i>January 1, 2018</i>	31-51oo
Sec. 18	<i>January 1, 2018</i>	31-51pp
Sec. 19	<i>January 1, 2018</i>	31-51qq
Sec. 20	<i>January 1, 2018</i>	31-51ss
Sec. 21	<i>July 1, 2016</i>	3-13c
Sec. 22	<i>January 1, 2018</i>	Repealer section